

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK**

NEW YORK STATE CATHOLIC HEALTH PLAN)
INC., d/b/a FIDELIS CARE NEW YORK, *a New York*)
not-for-profit corporation,)

Plaintiff,)

v.)

CONSOLIDATED WORLD TRAVEL, INC., d/b/a)
HOLIDAY CRUISE LINE, *a Florida corporation,*)
INTERNATIONAL MARKETING ASSOCIATION,)
INC., *a Virginia corporation,* and LIFE PROTECT 24/7,)
INC., *a Virginia corporation,*)

Defendants.)

1:15-cv-02664-FB-VMS

AFFIRMATION OF SHAJI M. EAPEN, ESQ. IN SUPPORT OF MOTION

I, **SHAJI M. EAPEN, ESQ.**, being of full age and being duly admitted to this Court, hereby affirm the following under penalty of perjury:

1. On June 11, 2015, this Court entered a Scheduling Order [DE 10], setting an initial conference for August 12, 2015, and directing Plaintiff's counsel to confirm with Defendants' counsel that all parties are aware of the conference.

2. Although Defendant Consolidated World Travel ("CWT") was aware that this action had been filed at the time and had reached an agreement for an extension of time to respond to the Complaint by July 31, 2015, that was filed by

Plaintiff and granted by the Court in the same Order, counsel for CWT did not enter an appearance in this action until July 15, 2015, and no counsel for the other two defendants has entered an appearance.

3. Richard Epstein, Esq. CWT's lead counsel, whose application for admission *pro hac vice* was recently filed and Jeffrey A. Backman, Esq., CWT's co-lead counsel, whose application for admission *pro hac vice* is ready to be filed pending receipt of a current certificate of good standing, are located in Fort Lauderdale, Florida, and cannot appear in person for the initial case management conference due to conflicts with other pending matters and a pre-planned family vacation. Richard Epstein, Esq. is scheduled to be attending a mediation in *Morgan Stanley Smith Barney LLC, et al. v. Michael Smith*, FINRA Case No. 13-03476. Jeffrey Backman, Esq. is going to be out of the country on a pre-paid family vacation.

4. Accordingly, CWT respectfully request leave for Messrs. Epstein and/or Backman to appear telephonically at the initial case management conference on August 12, 2015, which would provide for the conference to proceed on the date scheduled by the Court and conserve CWT's legal and travel expenses associated with its counsel traveling from Florida and without the need for local counsel to appear at the conference.

5. Alternatively, CWT respectfully requests a continuance of the initial case management conference to a later date. Pursuant to Section II(b)(5) of this

Court's Individual Practice Rules, CWT offers three suggested adjournment dates of August 25, 26, and 27, 2015, which suit all parties that have appeared.

6. Counsel for CWT have conferred with Plaintiff's counsel, who oppose CWT's request to have lead counsel attend the hearing telephonically unless CWT's local counsel attends in person, and who do not oppose CWT's alternative relief of a continuance of the initial case management conference as long as lead or local counsel for CWT attends in person.

WHEREFORE, CWT moves for entry of an Order allowing its counsel (Richard Epstein, Esq., whose *pro hac vice* application is pending or Jeffrey A. Backman, Esq., whose *pro hac vice* application will soon be filed) to appear via telephone for the initial case management conference in this matter scheduled for August 12, 2015 at 11:00 a.m., or alternatively an Order providing for a continuance of the conference until August 25, 26, and 27, 2015, so that CWT's lead counsel can attend in person, if required, and for any other relief this Court finds just and proper.

Affirmed this 24th day
of July, 2015

MORGAN MELHUISE ABRUTYN

/s/ Shaji M. Eapen

SHAJI M. EAPEN, ESQ.

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Travel, Inc. d/b/a Holiday Cruise Line